IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.911 OF 2006.
IN
CRIMINAL APPEAL NO. 61 OF 2006.

Bala @ Gangaram Chandrakant Achrekar. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri Ganesh Gole for the Applicant.

Ms.S.V.Gajare, A.P.P. for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 7th November, 2006.

P.C.:

1. Heard Shri Gole for the Applicant and the A.P.P. for the State.

2. The Applicant is Accused No.1 who has been convicted for offence punishable under section 304 Part-II read with section 34 of the Indian Penal Code and section 324 read with section 34 of the Penal Code. The substantive sentence is of 10 years R.I. Shri Gole invited my attention to the order of bail granted in favour of three co-accused. He submitted that the prosecution case as regards stabbing by the Applicant cannot be accepted. He submitted that the Applicant was on bail all throughout the trial and there is no grievance made by the prosecution as regards the misuse of the liberty granted in favour of the Applicant. He has invited my attention to the notes of evidence. He pointed out that Kashinath was under the influence of liquor at the relevant time. He also submitted that it

is the case of a single blow.

3. A perusal of the judgment and notes of evidence shows that there is clear material on record to show that the Applicant stabbed Nitesh. The post-mortem notes prima-facie show that the stab injury has resulted into death. The Applicant cannot claim parity as the role ascribed to other co-Accused is totally different. Considering the entire evidence on record, no case is made out for grant of bail. However, Appeal will have to be expedited with liberty to the Applicant to file private paper book.

4. Hence the following order is passed:

i) The Application is rejected.

ii) Hearing of the Appeal is expedited. liberty to the Applicant to file private paper book and thereafter to mention the matter before the appropriate Court.

Judge.